

Senate File 400 - Introduced

SENATE FILE 400

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A BILL FOR

- 1 An Act relating to the carrying and possession of weapons and
- 2 providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.52, subsection 2, paragraph a,
2 subparagraph (4), subparagraph division (a), subparagraph
3 subdivision (viii), Code 2015, is amended to read as follows:

4 (viii) Section 724.4, if the child ~~carried the dangerous~~
5 ~~weapon~~ used the knife in the commission of a crime on school
6 grounds.

7 Sec. 2. Section 708.8, Code 2015, is amended to read as
8 follows:

9 **708.8 Going armed with intent.**

10 A person who goes armed with any dangerous weapon with the
11 intent to use without justification such weapon against the
12 person of another commits a class "D" felony. The intent
13 required for a violation of this section shall not be inferred
14 from the mere carrying or concealment of any dangerous weapon
15 itself, including the carrying of a loaded firearm, whether in
16 a vehicle or on or about a person's body.

17 Sec. 3. Section 724.4, Code 2015, is amended by striking the
18 section and inserting in lieu thereof the following:

19 **724.4 Use of a knife in the commission of a crime.**

20 A person who goes armed with a knife on or about the person,
21 if the person uses the knife in the commission of a crime,
22 commits an aggravated misdemeanor.

23 Sec. 4. Section 724.4B, Code 2015, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **724.4B Carrying weapons on school grounds — penalty —**
26 **exceptions.**

27 1. A person who goes armed with, carries, or transports a
28 firearm of any kind, whether concealed or not, on the grounds
29 of a school commits a class "D" felony. For the purposes of
30 this section, "school" means a public or nonpublic school as
31 defined in section 280.2.

32 2. Subsection 1 does not apply to the following:

33 a. A person who has been specifically authorized by the
34 school to go armed with, carry, or transport a firearm on the
35 school grounds for any lawful purpose.

1 *b.* A peace officer, when the officer's duties require the
2 person to carry such weapons.

3 *c.* A member of the armed forces of the United States or
4 of the national guard or person in the service of the United
5 States, when the weapons are carried in connection with the
6 person's duties as such.

7 *d.* A correctional officer, when the officer's duties
8 require, serving under the authority of the Iowa department of
9 corrections.

10 *e.* A person who for any lawful purpose carries an unloaded
11 pistol, revolver, or other dangerous weapon inside a closed and
12 fastened container or securely wrapped package which is too
13 large to be concealed on the person.

14 *f.* A person who for any lawful purpose carries or transports
15 an unloaded pistol or revolver in a vehicle inside a closed
16 and fastened container or securely wrapped package which is
17 too large to be concealed on the person or inside a cargo
18 or luggage compartment where the pistol or revolver will not
19 be readily accessible to any person riding in the vehicle or
20 common carrier.

21 *g.* A law enforcement officer from another state when the
22 officer's duties require the officer to carry the weapon and
23 the officer is in this state for any of the following reasons:

24 (1) The extradition or other lawful removal of a prisoner
25 from this state.

26 (2) Pursuit of a suspect in compliance with chapter 806.

27 (3) Activities in the capacity of a law enforcement officer
28 with the knowledge and consent of the chief of police of the
29 city or the sheriff of the county in which the activities occur
30 or of the commissioner of public safety.

31 Sec. 5. Section 724.4C, Code 2015, is amended to read as
32 follows:

33 **724.4C Possession or carrying of firearms while under the**
34 **influence.**

35 1. ~~A permit issued under this chapter is invalid if the~~

1 Except as provided in subsection 2, a person to whom the permit
2 is issued is commits a serious misdemeanor if the person
3 is intoxicated as provided under the conditions set out in
4 section 321J.2, subsection 1-, and the person does any of the
5 following:

6 a. Carries a dangerous weapon on or about the person.

7 b. Carries a weapon within the person's immediate access or
8 reach while in a vehicle.

9 2. This section shall not apply to any of the following:

10 a. A person who carries or possesses a dangerous weapon
11 while in the person's own dwelling, place of business, or on
12 land owned or lawfully possessed by the person.

13 b. The transitory possession or use of a firearm during
14 an act of justified self-defense or justified defense of
15 another, provided that the possession lasts no longer than is
16 immediately necessary to resolve the emergency.

17 Sec. 6. Section 724.5, Code 2015, is amended by striking the
18 section and inserting in lieu thereof the following:

19 **724.5 Availability of permit not to be construed as**
20 **prohibition on unlicensed carrying of weapons.**

21 The availability of a professional or nonprofessional permit
22 to carry weapons under this chapter shall not be construed
23 to impose a general prohibition on the unlicensed carrying,
24 whether openly or concealed, of a deadly weapon, including a
25 loaded firearm.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to the carrying and possession of weapons
30 and provides penalties.

31 The bill amends Code section 708.8, the crime of going armed
32 with a dangerous weapon with intent, a class "D" felony, to
33 provide that the intent element required for a violation of
34 this crime shall not be inferred from the mere carrying or
35 concealment of a dangerous weapon.

1 The bill strikes Code section 724.4 relating to the crime of
2 carrying dangerous weapons, an aggravated misdemeanor, without
3 a valid permit or in other enumerated circumstances. Instead,
4 the bill section creates a new crime of going armed with a
5 knife in the commission of a crime, an aggravated misdemeanor.
6 The bill makes a conforming change to Code section 232.52,
7 subsection 2, relating to the suspension or revocation of a
8 juvenile's driver's license or operating privilege. The bill
9 also makes a conforming Code change to Code section 724.4B,
10 relating to the carrying of weapons on school grounds, to
11 specifically include certain categories of persons who are
12 authorized to carry weapons on school grounds.

13 The bill amends Code section 724.4C relating to the crime of
14 possession or carrying of firearms while under the influence
15 of alcohol or a drug. Current law invalidates a permit to
16 carry weapons if the person to whom the permit is issued is
17 intoxicated, as defined in Code section 321J.2, subsection 1
18 (while under the influence of an alcoholic beverage or other
19 drug or a combination of such substances, while having an
20 alcohol concentration of .08 or more, or while any amount of a
21 controlled substance is present in the person, as measured in
22 the person's blood or urine). The bill amends this provision
23 to provide that a person commits a serious misdemeanor if
24 the person is intoxicated and the person either carries a
25 dangerous weapon on or about the person or carries a dangerous
26 weapon within the person's immediate access or reach while in
27 a vehicle. This crime does not apply to situations where a
28 person carries or possesses a dangerous weapon while in the
29 person's own dwelling, place of business, or on the person's
30 land, and the transitory possession or use of a firearm during
31 an act of justified self-defense or justified defense of
32 another, if the possession of the firearm lasts no longer than
33 immediately necessary to resolve the emergency.

34 The bill strikes Code section 724.5 relating to a person's
35 duty to carry a valid permit to carry certain weapons for

1 which a permit has been issued to the person and replaces that
2 Code section with a provision stating that the availability
3 of a professional or nonprofessional permit to carry weapons
4 shall not be construed to impose a general prohibition on the
5 unlicensed carrying of a deadly weapon including a loaded
6 firearm.